

GENERAL ORDERS, }  
No. 94. }

WAR DEPARTMENT,

ADJUTANT GENERAL'S OFFICE,

Washington, April 10, 1863.

I. Before a General Court Martial, which convened at Bowling Green, Kentucky, February 2, 1863, pursuant to General Orders, No. 7, and Special Orders, No. 31, dated Headquarters, U. S. Forces, Bowling Green, Kentucky, and of which Lieutenant Colonel JAMES M. HOLMES, 3d Kentucky Cavalry, is President, was arraigned and tried—

First Lieutenant *John D. Burd*, 4th Kentucky Volunteer Cavalry.

CHARGE I.—“Absent without leave.”

*Specification 1st*—“In this; that the said 1st Lieutenant *John D. Burd*, Company ‘F,’ 4th Regiment Kentucky Volunteer Cavalry, while encamped at or near Battle Creek, in the county of ——, and State Alabama, did, on or about the 29th day of July, 1862, absent himself from his said Company and Regiment without leave, and remain absent therefrom until on or about the 3d day of August, 1862.”

*Specification 2d*—“In this; that the said 1st Lieutenant *John D. Burd*, Company ‘F,’ 4th Regiment Kentucky Volunteer Cavalry, while encamped at or near Bowling Green, in Warren county, and State of Kentucky, did, on or about the 13th day of December, 1862, absent himself from his said Company and Regiment without leave, and remain absent therefrom until on or about the 20th day of December, 1862.”

CHARGE II.—“Conduct unbecoming an officer and a gentleman.”

*Specification 1st*—“In this; that the said 1st Lieutenant *John D. Burd*, Company ‘F,’ 4th Regiment Kentucky Volunteer Cavalry, while encamped at or near Battle Creek, in county of ——, and State of Alabama, did, on or about the 27th day of June, 1862 take, or cause to be taken, to the city of Louisville, Kentucky, one dark bay horse, which said horse had been captured or stolen by one private Thomas Sheehan, of his said Company; and that he, the said 1st Lieutenant *John D. Burd*, knew that

said horse had been so captured or stolen, and appropriated said horse to his own use and gain, without accounting for the same, as required by the Army Regulations."

*Specification 2d*—"In this; that the said 1st Lieutenant *John D. Burd*, Company 'F,' 4th Regiment Kentucky Volunteer Cavalry, while encamped at or near Clarksville, in county of —, and State of Tennessee, did, on or about the 14th day of November, 1862, trade, or cause to be traded, a Government horse to a citizen, or other, for a gray mare, which said gray mare he appropriated to his own private use and gain, and afterwards, to wit: on or about the 18th day of November, 1862, the said 1st Lieutenant *John D. Burd*, Company 'F,' 4th Regiment Kentucky Volunteer Cavalry, did trade, or cause to be traded, the gray mare aforesaid, for one yellow horse, which horse he appropriated to his own use and gain. This at or near Russelville, in county of Logan, and State of Kentucky."

*Specification 3d*—"In this; that the said 1st Lieutenant *John D. Burd*, Company 'F,' 4th Regiment Kentucky Volunteer Cavalry, while encamped at or near Bowling Green, in Warren county, and State of Kentucky, did, on or about the 13th day of December, 1862, order the Orderly Sergeant, one William G. Mitton, of his said Company to report him present on the 'morning report book' of such Company, when he, the said 1st Lieutenant *John D. Burd*, should be absent."

*Specification 4th*—"In this; that the said 1st Lieutenant *John D. Burd*, Company 'F,' 4th Regiment Kentucky Volunteer Cavalry, while encamped at or near Hopkinsville, in Christian county, and State of Kentucky, did, on or about the 1st day of December, 1862, visit the house of a citizen (whose name is unknown) at the solicitation of such citizen, who resided near by the place of encampment, and take dinner, after which, on his returning to camp, the said 1st Lieutenant *John D. Burd*, aforesaid, did take, steal, and carry away with him one double-barrel shot gun, the private property of the citizen aforesaid."

*Specification 5th*—"In this; that the said 1st Lieutenant *John D. Burd*, Company 'F,' 4th Regiment Kentucky Volunteer Cavalry, while

encamped at or near Clarksville, in county of ———, and State of Tennessee, did, on or about the 16th day of November, 1862, strike one private Edward H. Cunmingore, of his said Company, on the head with *brass knuckles*, thereby disabling him to such an extent that he was unable to keep up with his Company, and was in consequence captured by the enemy, and had his arms taken away from him."

*Specification* 6th—"In this; that the said 1st Lieutenant *John D. Burd*, Company 'F,' 4th Regiment Kentucky Volunteer Cavalry, has in his possession two burglar saws and a pair of brass knuckles, which said brass knuckles he carries about his person, and has repeatedly threatened to use them in striking and beating the men and others under his command."

**CHARGE III.**—"Leaving his post when in command of a picket guard."

*Specification*—"In this; that the said 1st Lieutenant *John D. Burd*, 4th Regiment Kentucky Volunteer Cavalry, while encamped at or near Bowling Green, in Warren county, and State of Kentucky, did, on or about the 12th day of December, 1862, leave his post while in command of the cavalry picket, about three and a half miles from Bowling Green, Kentucky, on the Nashville road; and that he, the said 1st Lieutenant *John D. Burd*, as aforesaid, did not return to take command of his said picket before it was relieved."

**CHARGE IV.**—"Abandoning his Company when in line of battle and expecting an attack of the enemy."

*Specification*—"In this; that the said 1st Lieutenant *John D. Burd*, Company 'F,' 4th Regiment Kentucky Volunteer Cavalry, while encamped at or near Hopkinsville, in Christian county, and State of Kentucky, did, on or about the 1st day of October, 1862, abandon his said Company when in line of battle expecting an attack of the enemy, and took with him the Orderly Sergeant, one William G. Mitton, of his said Company; and that he, the said 1st Lieutenant *John D. Burd*, as aforesaid, did not return to his said Company until after the danger of an attack had passed."

To which charges and specifications the accused, 1st Lieutenant *John D. Burd*, 4th Kentucky Volunteer Cavalry, pleaded as follows:

**CHARGE I.**

To *Specification 1st*, "Not Guilty."

To *Specification 2d*, "Not Guilty."

And to the **CHARGE**, "Not Guilty."

**CHARGE II.**

To *Specification 1st*, "Not Guilty."

To *Specification 2d*, "Not Guilty; but says he had a Government horse which he got honestly at Stevenson, Alabama, when he drew the five horses from the Government, and I owe the Government a hundred dollars for him. I used him as my own. When I broke him down in the service of my Government, I then traded him off for the yellow horse, which thereby became my own, which horse I used in the service of the Government up to the time of my arrest."

To *Specification 3d*, "Not Guilty."

To *Specification 4th*, "Not Guilty."

To *Specification 5th*, "Guilty of striking the said Cummingore as charged, but denies that the wounds caused by said striking was the cause of his capture, and pleads justification of the striking in this; that the said private Cummingore refused to obey orders, and drew a cocked pistol, and that the said striking was in self-defence."

To *Specification 6th*, "Guilty to having two saws, but denies that they were known by the name of burglar saws, and admits that he had brass knuckles, but denies threatening to use them as charged; claims that he has a right to said saws and to said brass knuckles, and to carry them about his person."

And to the **CHARGE**, "Not Guilty."

**CHARGE III.**

To the *Specification*, "Guilty to the charge of leaving his picket post at the time and place stated, but says he had orders to leave by his superior officer, Major John F. Gunkel, commanding his regiment; pleads justification."

And to the **CHARGE**, "Not Guilty."

## CHARGE IV.

To the *Specification*, "Not Guilty; but says that he did leave his Company, but not with his Orderly Sergeant, and says that he had orders of his superior officer, Captain P. W. McGowan, and therefore pleads justification."

And to the **CHARGE**, "Not Guilty."

## FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, First Lieutenant *John D. Burd*, 4th Kentucky Volunteer Cavalry, as follows:

## CHARGE I.

Of the 1st *Specification*, "Guilty."

Of the 2d *Specification*, "Guilty."

Of the 1st **CHARGE**, "Guilty."

## CHARGE II.

Of the 1st *Specification*, "Guilty, except so much of said specification charging the taking, or causing to be taken, to the city of Louisville, Kentucky, one dark bay horse."

Of the 2d *Specification*, "Guilty."

Of the 3d *Specification*, "Guilty."

Of the 4th *Specification*, "Not Guilty."

Of the 5th *Specification*, "Not Guilty, and fully justified his conduct on the occasion referred to in said specification."

Of the 6th *Specification*, "Not Guilty; no evidence introduced touching this specification."

Of the 2d **CHARGE**, "Guilty."

## CHARGE III.

Of the *Specification*, "Guilty."

Of the 3d **CHARGE**, "Guilty."

## CHARGE IV.

Of the *Specification*, "Not Guilty."

Of the 4th **CHARGE**, "Not Guilty."

## SENTENCE.

And the Court does therefore sentence him, First Lieutenant *John D. Burd*, 4th Kentucky Volunteer Cavalry, "To be cashiered and dishonorably dismissed from the service of the United States, and be utterly disabled to have or hold any office or employment in the service of the United States, and that he forfeit all pay due him up to this date from the Government, and that he be required to surrender up one yellow gelding horse now in his possession, the same being, in the opinion of the Court, a horse rightfully the property of the Government."

II. In conformity with the 5th section of the act approved July 17, 1862, the proceedings in the foregoing case have been forwarded for the action of the President of the United States, with the recommendation that Lieutenant *Burd* be dismissed the service, notwithstanding certain irregularities in the proceedings of the Court. The recommendation is approved, and First Lieutenant *John D. Burd*, 4th Kentucky Volunteer Cavalry, is, by direction of the President, dismissed the service.

BY ORDER OF THE SECRETARY OF WAR:

*E. D. TOWNSEND,*  
*Assistant Adjutant General.*